

EXHIBIT#3

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KELLY, RODE & KELLY, LLP

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RASHAD ALI, MINERVA ALI, MINERA ALI AS
GUARDIAN OVER DANYAL ALI, INFANT MINERVA ALI,
AS GUARDIAN OVER TANYAH ALI, INFANT,

Plaintiffs,

Docket No.

07 CV 6010

-against-

(GBD)

LECOURIUX G. YANNICK,

Defendant.

-----X
EXAMINATION BEFORE TRIAL of the
Plaintiff, RASHAD ALI, taken by the Defendant,
pursuant to Order, held at the offices of Sacks
& Sacks, LLP, 150 Broadway, New York, New York,
on February 8, 2008, at 10:27 a.m., before a
Notary Public of the State of New York.

BARRISTER REPORTING SERVICE, INC.

120 Broadway

New York, N.Y. 10271

212-732-8066

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2 A P P E A R A N C E S :

3

4 SACKS & SACKS, LLP
5 Attorneys for Plaintiffs
6 150 Broadway
7 New York, New York 10038
8 BY: DAVID H. MAYER, ESQ.
9

10 KELLY, RODE & KELLY
11 Attorneys for Defendant
12 330 Old Country Road
13 Mineola, New York 11501
14 BY: JOHN MORRIS, ESQ.

15 ALSO PRESENT:

16

17 MINERVA ALI

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S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED by and between the attorneys for the respective parties herein, that filing, sealing and certification, be and the same are, hereby waived.

IT IS FURTHER STIPULATED AND AGREED that all objections except as to the form of the question, shall be reserved to the time of the trial.

IT IS FURTHER STIPULATED AND AGREED that the within deposition may be signed and sworn to by an officer authorized to administer an oath, with the same force and effect as if signed and sworn to before the Court.

xxxxxx

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2 R A S H A D A L I,

3 having been first duly sworn before a

4 Notary Public of the State of New

5 York, was examined and testified as

6 follows:

7

8 EXAMINATION BY

9 MR. MORRIS:

10 Q. Please state your name for the record.

11 A. Rashad Ali.

12 Q. What is your address?

13 A. 1255 Ward Avenue, first floor, Bronx,

14 New York 10472.

15 Q. Good morning, Mr. Ali.

16 A. Good morning.

17 Q. My name is John Morris. I am an
18 attorney. My office, Kelly, Rode & Kelly,
19 represents the defendant, Mr. Yannick, in a
20 lawsuit that has been brought on your behalf
21 by your attorneys. I am going to ask you
22 some questions about this accident and some
23 related matters.

24 If there is any question that you
25 don't understand, please, let me know. The

1 R. ALi

2 questions can always be read back by the
3 court reporter or if it is not clear we could
4 try another question. Make sure you
5 verbalize all your responses. If you nod
6 your head or use a hand gesture, she can't
7 take it down. The court reporter we have
8 here is taking down everything that is being
9 said. Please, wait until I'm done with my
10 question before you start to answer. Once
11 again, so the court reporter can take down
12 everything that is being said.

13 Any time you need to take a break, let
14 me know and you could take a break. You just
15 can't do it while there is an open question
16 to you.

17 A. Okay.

18 Q. Have you ever been known by any other
19 name besides Rashad Ali?

20 A. No.

21 Q. What is your date of birth?

22 A. September 3, 1978.

23 Q. What is your Social Security number?

24 A. 097-82-1868.

25 Q. Sir, where were you born?

1 R. ALi

2 A. Guyana.

3 Q. What year did you come to the United
4 States?

5 A. 1994.

6 Q. Is English your native language?

7 A. Yes.

8 Q. Sir, what is your height and weight?

9 A. My height is 5'11''. The weight --

10 Q. Approximately.

11 A. Approximately 190.

12 Q. Sir, have you ever worn glasses or
13 contact lenses?

14 A. No.

15 Q. To the best of your knowledge, do you
16 have good eyesight?

17 A. Yes.

18 Q. What is your hearing, to the best of
19 your knowledge? Do you have good hearing?

20 A. Yes.

21 Q. Sir, how long have you lived on the
22 first floor of 1255 Ward Avenue in the Bronx?

23 A. Six years.

24 Q. Where did you live immediately before
25 that?

1 R. ALi

2 A. Elder Avenue.

3 Q. E-L-D-E-R?

4 A. Yes.

5 Q. Where is that, sir?

6 A. 1213.

7 Q. 1213 Elder Avenue?

8 A. Yes.

9 Q. Is that in the Bronx?

10 A. Yes.

11 Q. How long did you live there?

12 A. Lived there for about nine years.

13 Excuse me, eight years.

14 MR. MAYER: Keep your voice up.

15 You're doing fine, just make sure you

16 keep your voice up for everybody.

17 Q. Sir, are you married?

18 A. Yes.

19 Q. What is your spouse's name?

20 A. Minerva Ali.

21 Q. What is the date of your marriage?

22 A. Date of the marriage, I don't

23 remember.

24 Q. Start with the year?

25 A. December 6th.

1 R. ALi

2 MR. MAYER: Just do the best you
3 can do.

4 Q. What year was it? How long ago about,
5 approximately?

6 MR. MAYER: How long have you
7 guys been married, approximately?

8 THE WITNESS: Five or six years.

9 Q. Did you get married in the United
10 States?

11 A. Yes.

12 Q. Did you get married here in New York
13 or somewhere else?

14 A. The Bronx.

15 Q. Was that a religious service or the
16 Justice of Peace?

17 A. It was in the court.

18 Q. Do you have any children?

19 A. Yes.

20 Q. How many?

21 A. Three.

22 Q. Their names and ages?

23 A. Danyal, D-A-N-Y-A-L, he is four.

24 Q. Who else?

25 A. Danyah and Tanyah, they're twins.

1 R. ALi

2 Q. D-A-N-Y-A-H?

3 A. Yes.

4 Q. Her twin is Tanyah, T-A-N-Y-A-H?

5 A. Yes.

6 Q. Your twins, Danyah and Tanyah, they're
7 sisters?

8 A. Yes.

9 Q. Their age?

10 A. Four.

11 Q. Sir, did there come a time that you
12 were involved in a motor vehicle accident,
13 which is what this lawsuit is about? Did you
14 have an accident?

15 A. Yes.

16 Q. What was the day of the accident?

17 A. 10/28/06.

18 Q. October 28th?

19 A. '06.

20 Q. At what time, approximately?

21 A. 12:30.

22 Q. You're talking about in the afternoon?

23 A. Yes.

24 Q. Where did the accident occur?

25 A. 132nd Street on the FDR exit.

1 R. ALi

2 Q. 132nd Street?

3 A. The FDR exit.

4 Q. That is the FDR Drive?

5 A. Yes, exit out, exit from the FDR.

6 Q. This is in Manhattan, sir?

7 A. Yes.

8 Q. Were you operating a motor vehicle at
9 the time of the accident?

10 A. Yes.

11 Q. Please, describe that vehicle?

12 A. 2002 Honda Civic, four-door.

13 Q. What color was it, sir?

14 A. Silver.

15 Q. Automatic transmission?

16 A. Yes, sir.

17 Q. Do you remember whether it was an LX,
18 DX or something else?

19 A. I don't remember.

20 Q. Sir, had you bought that vehicle new?

21 A. No, used.

22 Q. What year did you buy it?

23 A. I don't remember. It was from my
24 father.

25 Q. What year did you get it from your

1 R. ALi

2 father?

3 A. I don't remember.

4 Q. At the time of the accident, who was
5 the registered owner of the vehicle?

6 A. Me.

7 Q. Did you experience any mechanical
8 problems with the vehicle on the day of the
9 accident?

10 A. No.

11 Q. Did you have any passengers?

12 A. Yes.

13 Q. Who were your passengers?

14 A. My wife, Minerva.

15 Q. Where was Minerva sitting?

16 A. Passenger's side.

17 Q. Front, the passenger's seat?

18 A. Yes.

19 Q. Were your three children in the car?

20 A. Yes.

21 Q. Where were they within the vehicle?

22 A. In the back.

23 Q. All three were in the second seat?

24 A. Yes.

25 Q. Were all three in car seats?

1 R. ALi

2 A. Yes.

3 Q. Which way were they facing while they
4 were seated in the car seat?

5 A. Straight forward.

6 Q. Seated in the same way that you were
7 seated as a driver?

8 A. Yes.

9 Q. Sir, what were the weather conditions
10 like at the time of the accident?

11 A. It was cloudy.

12 Q. Were the streets and sidewalks
13 generally dry?

14 A. Yes.

15 Q. If you recall, had it rained at
16 anytime that day, that morning?

17 A. No.

18 Q. Before?

19 A. No.

20 MR. MAYER: No, you don't recall
21 or no, it had not rained?

22 THE WITNESS: It had not rained.

23 Q. Where were you coming from?

24 A. New Jersey.

25 Q. Where in New Jersey?

1 R. ALi

2 A. I went to grocery shop.

3 Q. Did you have groceries in the car?

4 A. Yes, sir.

5 Q. Where were they in the car?

6 A. The trunk.

7 Q. Where were you going to?

8 A. I was going home.

9 Q. That was the home you live in
10 presently; is that correct, sir?

11 A. Yes.

12 Q. Did you have to be home at any
13 particular time?

14 A. No.

15 Q. What day of the week did the accident
16 occur on?

17 A. Saturday.

18 Q. About how far into your journey home
19 were you when the accident occurred?

20 Meaning, had you completed half the trip,
21 something less, something more, how would you
22 describe that?

23 A. Less.

24 Q. Less than halfway home?

25 A. Yes.

1 R. ALi

2 Q. What community had you done the
3 shopping in Jersey?

4 A. Walmart, Sam's Club.

5 Q. In what area? Was it Fort Lee? Do
6 you know what area of Jersey that is?

7 A. I don't remember.

8 Q. At some point, did you go from New
9 Jersey into Manhattan?

10 A. Yes.

11 Q. How did you get across?

12 A. The George Washington Bridge.

13 Q. Where did you go after getting off the
14 George Washington Bridge?

15 A. I take the FDR.

16 Q. FDR Drive?

17 A. Yes.

18 Q. Is that something that goes one way or
19 two ways at that location?

20 A. The FDR has two sides.

21 Q. In which direction did you get on the
22 FDR Drive?

23 A. South.

24 MR. MAYER: Do you mean in which
25 direction was he heading?

1 R. ALi

2 THE WITNESS: South.

3 Q. Sir, to the best of your recollection,
4 had you gotten off the FDR Drive before the
5 accident occurred or were you still on the
6 FDR Drive?

7 A. No, I get off.

8 Q. What exit did you get off that?

9 A. 132nd Street exit.

10 Q. Now, was this an exit that had simply
11 one exit at 132nd Street or did it have an
12 exit that split off and you could go in two
13 directions?

14 MR. MAYER: Just note my
15 objection to the form. You could
16 answer.

17 A. Yes.

18 Q. Do you remember, was it just one exit
19 to get off there or was there an exit that
20 you could go one way or the other way at that
21 location?

22 A. I don't understand.

23 Q. All right.

24 MR. MAYER: When you exited, was
25 it one lane or two lanes?

1 R. ALi

2 THE WITNESS: Yes, one lane,
3 yes.

4 Q. When you exited the FDR Drive at 132nd
5 Street, do you run into a traffic light, a
6 stop sign, a yield sign or something else?

7 A. A yield sign, yes.

8 Q. When you got off the FDR Drive, at
9 some point, did you actually get onto 132nd
10 Street?

11 A. No. When I get off, I stopped on the
12 yield sign and the car behind me hit me.

13 Q. Where you got hit, were you actually
14 already on 132nd Street or not on the street
15 yet?

16 A. No, I was still on the exit.

17 Q. Was this like an exit ramp?

18 A. Yes.

19 Q. When you say a yield sign, do you know
20 what a stop sign looks like?

21 A. Yes.

22 Q. Was there a stop sign, basically,
23 facing you as you were coming off the exit
24 ramp?

25 A. No, a yield sign.

1 R. ALi

2 Q. This exit ramp off the FDR Drive at
3 132nd Street, did the exit ramp curve in any
4 direction or was it just straight?

5 A. Just go straight.

6 Q. At the end of the exit ramp, is that
7 132nd Street?

8 A. I don't remember.

9 MR. MAYER: Off the record.

10 (Discussion held off the
11 record.)

12 Q. Sir, where the exit was on the FDR to
13 get off on 132nd Street, is there a point
14 where you come off this exit ramp that you
15 merge with traffic --

16 A. Yes.

17 Q. -- along side the roadway?

18 A. Yes.

19 Q. Do you know what the name of that
20 roadway is?

21 A. No.

22 Q. Did the accident happen before or
23 after that merger?

24 A. Right in the end, next to the yield
25 sign.

1 R. ALi

2 Q. Are you talking about a yield sign?

3 A. As you exit out on the exit, yes.

4 Q. Is there a point where the exit ramp
5 traffic merges with other traffic before it
6 gets to 132nd Street or something different?
7 Please, describe it in your own words.

8 A. No. You exit out and the street is
9 over here with the light. You exit out,
10 there is a yield sign and this road side
11 right here and traffic comes together like
12 that.

13 Q. We are going to try to put that
14 together in words. As you come off the
15 highway, is 132nd Street perpendicular to
16 where the exit ramp is?

17 A. Yes, going like this.

18 Q. Do you know anything about
19 perpendicular?

20 A. No.

21 Q. What was your speed on the FDR Drive
22 immediately before you got on the exit ramp?

23 A. Before I get on the exit ramp?

24 Q. In other words, you're still on the
25 highway, you are about to get on the exit

1 R. ALi

2 ramp, what was your speed right there?

3 A. Twenty-five.

4 Q. The FDR, that stretch on the FDR Drive
5 before that, was that straight, curved or
6 something else?

7 A. I don't remember. You have a lot of
8 cars on there.

9 Q. Do you remember whether it was on an
10 incline or decline as you were on the FDR
11 Drive, right before the exit ramp?

12 A. It was pretty much flat.

13 Q. Pretty much leveled?

14 A. Yes.

15 Q. At some point, was there an accident
16 involving another vehicle? There was one
17 other vehicle involved in this accident?

18 A. Only one vehicle.

19 Q. Just one other vehicle?

20 A. Yes.

21 Q. Please, describe that vehicle?

22 A. It is a Jeep Cherokee.

23 Q. What color?

24 A. I believe it was gray.

25 Q. Did you ever see that vehicle before

1 R. ALi

2 the accident occurred?

3 A. No.

4 Q. Was there one impact or other more
5 than one impact?

6 A. One impact.

7 Q. How would you describe it, soft,
8 medium, hard or something else?

9 A. Hard, solid.

10 Q. What part of your Honda Civic was
11 involved in the impact?

12 A. The rear.

13 Q. When you say the rear, the rear
14 bumper?

15 A. The back, the back.

16 Q. The rear back?

17 A. Yes.

18 Q. Are you talking about the rear bumper
19 area?

20 A. Yes.

21 Q. Do you know what I mean by the bumper?

22 A. No.

23 Q. Sir, do you know what I mean by the
24 bumper on the car? Are you familiar, yes or
25 no? Are you familiar with the term bumper on

1 R. ALi

2 the car?

3 A. No.

4 Q. What part of the back was the point of
5 impact? What words would you use?

6 A. Just straight, just hit it straight
7 like that.

8 Q. Could you describe the part on your
9 vehicle, on your automobile, what part on the
10 back?

11 A. The center from the back of the car.

12 Q. Was there damage as a result of the
13 impact?

14 A. Yes.

15 Q. Before this accident, had the body of
16 your Honda Civic had any body damage on it?

17 A. No.

18 Q. Immediately before the impact
19 occurred, was your vehicle stopped or was it
20 moving?

21 A. It was stopped.

22 Q. It was already at a stop?

23 A. Yes.

24 Q. For how long was it at a stop before
25 the impact occurred?

1 R. ALi

2 A. A couple seconds.

3 Q. When you say a couple of seconds, what
4 number does that mean to you, approximately?

5 A. Ten.

6 Q. Had you brought your vehicle
7 intentionally to a complete stop?

8 A. Completely stopped.

9 Q. You had done that intentionally; is
10 that correct? You intentionally brought it
11 to a stop?

12 MR. MAYER: Just note my
13 objection to the form.

14 A. Yes.

15 Q. Yes or no, did you intentionally bring
16 your vehicle to a stop before the accident?

17 A. I don't understand.

18 Q. Do you know what I mean by
19 intentionally?

20 A. No.

21 Q. Why did you stop?

22 MR. MAYER: Did you intend to
23 hit the brakes before you stopped?

24 THE WITNESS: Yes, I stopped.

25 Q. For what reason did you stop your

1 R. ALi

2 vehicle?

3 A. It was a car in front of me.

4 Q. Was that a car that what also getting
5 off at that exit ramp?

6 A. Yes.

7 Q. Had you followed that other vehicle
8 off the exit ramp?

9 A. Yes.

10 Q. How would you describe the stop that
11 you made behind that other vehicle? Would
12 you consider it a gradual stop, a medium stop
13 an abrupt stop or something else?

14 A. A regular stop.

15 Q. Regular could mean a lot of things.

16 A. I go slow and I slow because there was
17 a car in front of me that was stopped.

18 Q. When you say regular stop, can you
19 describe the stop?

20 A. A soft stop.

21 Q. Okay. In bringing your vehicle to a
22 soft stop, did your tires or brakes screech?

23 A. No.

24 Q. Did you skid at any point in that
25 stop?